LIPSITZ & MCALLISTER, LLC
INTELLECTUAL PROPERTY ATTORNEYS

BRADFORD GREEN, BUILDING 8
755 MAIN STREET
MONROE, CONNECTICUT 06468

BARRY R. LIPSITZ
DOUGLAS M. MCALLISTER

TELEPHONE: (203) 459-0200
FACSIMILE: (203) 459-0201

In re Application of: **Peterka et al.**
Application No.: **09/807,050**
Filed: **April 6, 2001**
For: **SOFTWARE APPLICATION LIFECYCLE AND MANAGEMENT FOR BROADCAST APPLICATIONS**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Art Unit: **2122**
Examiner: **C. Kendall**

Sir:

Transmitted herewith is:

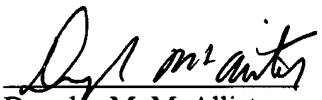
[X] A Response in the above-identified application (5 pages);

[X] Return receipt postage prepaid postcard;

[X] I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: **Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450** on **March 28, 2005.**

The Commissioner is hereby authorized to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 50-0625.

Very truly yours,



Douglas M. McAllister
Attorney for Applicant(s)
Registration No. 37,886
Lipsitz & McAllister, LLC
755 Main Street
Monroe, Connecticut 06468
(203) 459-0200

Attorney Docket No.: **GIC-555**

1Fw 2122

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	)	
Peterka et al.	)	Examiner: C. Kendall
	)	
Serial No.: 09/807,050	)	Art Unit: 2122
	)	
Filed: April 6, 2001	)	
	)	

For: **SOFTWARE APPLICATION LIFECYCLE AND MANGAGEMENT FOR BROADCAST APPLICATIONS**

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Mail Stop: Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450 on : March 28, 2005.

By: Carol Prentice
Carol Prentice

RESPONSE

Dear Sir:

This Response is responsive to the Office Action mailed on January 19, 2005.

Claims 1-3, 5-7, 9, 10, 12, and 14-24 are pending.

Claims 1-3, 5, 21 and 22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mills (US 6,055,560).

Claims 6, 7, 9, 10, 12, 14-20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mills in view of Anandakumar (US 6,574,213).

Applicants respectfully traverse these rejections in view of the following comments.

Discussion of Mills

Claims 1-3, 5, 21 and 22 stand rejected under 35 U.S.C § 102(e) as being anticipated by Mills. This rejection is respectfully traversed. An anticipation rejection requires that each and every element of the claimed invention as set forth in the claim be provided in the cited

reference. See *Akamai Technologies Inc. v. Cable & Wireless Internet Services Inc.*, 68 USPQ2d 1186 (CA FC 2003), and cases cited therein. As discussed in detail below, Mills does not meet the requirements for an anticipation rejection.

Mills discloses methods and systems that provide interactivity for a networked video server. Mills discloses a video-on-demand system that is divided into three domains, a dial tone domain 101, a provider domain 101, and a household or user domain 104 (separated by dashed lines in Figure 1). In the household domain, the television 106 is connected by means of the set-top box STB 108 through a standard interface 110 into the dial tone network 101. A standard interface 114 in the network 101 is connected to the interface 110 in the household domain by means of a fiber optic link. The interface 114 is connected over a control channel 116 to a level 2 gateway 118 in the video providers domain 102. The level 2 gateway 118 is connected to and provides control for the video server 122. Video information is served from the video server 122 over broadband link 126 to the interface 114 and over fiber optic link 115 to interface 110 in the household domain 104. The video information can then be provided to the STB 108 (Col. 6, line 57 through Col. 7, line 15).

In Mills, all applications are stored at and run from a remote application server 136. Mills specifically indicates that "an application is not set top dedicated and not application dedicated, meaning that any set top from anywhere can run any application going through application server 136" (Col. 8, lines 7-10). The API 152 and application code 150 of Mills referenced by the Examiner are resident on the remote application server 136, and not downloaded and stored on the terminal (STB 108 of Mills) as apparently assumed by the Examiner. In contrast, with Applicants' claimed invention, the API is implemented on the set-top terminal itself.

In Mills, applications are divided into panels. The STB lives from panel to panel and is not aware of the logical connections between panels of an application. A system server processes all requests made from a panel object with no regard as to which STB or which application is involved in such requests. Downloading of entire applications is not necessary (Col. 5, lines 4-18). Accordingly, in Mills, there is no application management occurring on the set top terminal. The requests for managing the applications (events) in Mills are sent from the STB 108 to the

remote server, which manages the applications in panels in response to the events received from the STB 108. In fact, in Mills, the applications are not downloaded, registered and installed at the terminal as in Applicants' claimed invention. Only panels (portions) of the application need to be temporarily downloaded to the set top terminal in Mills. The panels of Mills merely comprise a page for display on the television 106 associated with the terminal 108 (Col. 5, lines 58-63).

In Mills, there is a set top enabling code downloaded to the STB 108 from data server 132. The set top enabling code is use to initiate the set top operating system and bring the STB into a ready state. This set top enabling code is not equivalent to an application. As discussed above, no applications are downloaded to the STB 108 of Mills.

The Examiner indicates that column 8, lines 2-6 of Mills discloses that "applications are registered and installed at the terminal" (Office Action, page 2). Applicants respectfully submit that the Examiner is incorrect in his interpretation of Mills. The portion of Mills relied on by the Examiner indicates that "Once code is installed in the application library 150, the application engine simply matches an event ID with the appropriate code and then the code retrieves the appropriate panels to download to the set top". The application library 150 and the application engine 166 shown in Figure 2 are part of the remote application server 136, and not part of the set top 108 as apparently assumed by the Examiner. Further, Mills discloses only that requested panels of an application are downloaded to the set top, not entire applications.

Mills is far removed from Applicants' claimed invention. Mills is directed at a video-on-demand system that utilizes a video server to store and manage applications, which are divided into panels. In contrast, Applicants' claimed invention is directed at managing applications at the terminal itself. In Applicants' claimed invention, the applications are retrieved (downloaded), registered, and installed at the terminal and controlled by the API implemented at the terminal.

Mills does not disclose or suggest an API which is implemented at the terminal for managing applications (e.g., retrieving, enabling running, pausing, stopping, and resuming of applications) at the terminal, as claimed by Applicants. In Mills, the API 152 is located on the remote application server 136.

Mills also does not disclose recovering of application data according to locators associated with the applications, as claimed by Applicants. In Mills, panel stacking is used to enable a user to backtrack the way the user transitioned over the panels (Col. 5, lines 58-66). Applicants respectfully submit that the Examiner has incorrectly equated the panel stacking of Mills with the locators claimed by Applicants. The panels in Mills are merely different portions (pages) of an application, and not equivalent to locators associated with the applications as claimed by Applicants.

In addition, Mills does not disclose or remotely suggest that the applications are registered and installed at the terminal. Rather, in Mills, the applications are installed on the application server 136.

As Mills does not disclose each and every element of the invention as claimed, the rejections under 35 U.S.C. § 102(e) are believed to be improper, and withdrawal of the rejections is respectfully requested. See, *Akamai Technologies Inc., supra.*

Discussion of Anandakumar as an Improper Prior Art Citation

Applicants respectfully submit that Anandakumar is not a proper prior art citation. Anandakumar was filed on December 14, 1999 claiming priority from a provisional application filed on August 10, 1999. Applicants' claimed invention was filed on April 6, 2001 and is a continuation of a PCT application filed on October 7, 1999, and claims the benefit of a provisional application filed on October 13, 1998.

Therefore, Applicants' priority date is October 13, 1998, which predates the August 10, 1999 priority date of Anandakumar. Accordingly, Applicants respectfully submit that the Anandakumar patent is not a proper prior art citation. Withdrawal of the Anandakumar patent as a reference is respectfully requested.

Applicants respectfully submit that the present invention is not anticipated by and would not have been obvious to one skilled in the art in view of Mills, taken alone or in combination with any of the other prior art of record.